

REMARKS

Claims 1, 6, 8, and 12-15 are now in the application. By this Amendment, claims 1, 6, and 8 have been amended. Support for the amendments to claims 1 and 8 is found at least at paragraphs [0014] and [0017] of the specification as filed. Support for the amendment to claim 6 is found at least at paragraph [0049] of the specification as filed. Claims 2-5 and 7 have been canceled without prejudice or disclaimer. No new matter has been added.

Claim 8 is objected to for not further limiting claim 1 from which claim 8 depends. Claim 8 has been amended into independent form, as suggested in the Office Action.

Claims 13-15 are rejected under 35 USC §101 and 35 USC §112, first paragraph, because the Office Action considers these claims to recite a preparation process without specifying the necessary steps for performing this process. Applicants respectfully disagree with this claim interpretation. Claims 13-15 recite tangible objects, such as a cosmetic preparation, and not a preparation process. The tangible objects contain the polymer of claim 1.

Claims 1-8 and 12-15 are rejected under 35 USC §112, second paragraph, as being indefinite.

Specifically, the Office Action states that the claim recitation “obtainable” in claims 1 and 2 renders the claim scope unclear. The claims have been amended to recite “obtained” instead. Further, the Office Action notes that the body of the claim recites polymers, i.e., a plural, whereas the preamble recites a polymer, i.e., a singular. In addition, the Office Action states that it is unclear how the claim can recite the presence of a regulator for certain K values because the K value is measured after the polymerization has occurred but the regulator is added before or during the polymerization.

The pending claims have been amended to obviate this rejection.

Claim 6 is rejected because the claim recitation “the carboxylate groups” is considered to lack antecedent basis. Claim 6 has been amended to obviate this rejection.

Claims 1-8, 12, 13, and 15 are rejected under 35 USC §103(a) as being unpatentable over US Patent No. 5,306,484 to Potthof-Karl et al.

Independent claims 1 and 8, as amended, recite 0.01 to 3% by weight of a mixture of ethyl acrylate and N-tert-butylacrylamide as monomer C. At least these features of the independent claims cannot reasonably be considered to be taught in Potthof-Karl.

The Office Action considers monomer C of Potthof-Karl to correspond to the instant monomer C.

Potthof-Karl is directed at a hair setting composition which shows excellent compatibility with apolar propellants. At page 2, lines 3-5, Potthof-Karl teaches that monomer C is a methyl, ethyl, n-propyl, or n-butyl ester of acrylic or methacrylic acid. Potthof-Karl fails to teach that monomer C comprises N-tert-butylacrylamide.

Claims 1-8, 12, 13, and 15 are rejected under 35 USC §103(a) as being unpatentable over international application WO 02/38638, as evidenced by its counterpart US Patent No. 7,015,294 to Dausch.

Amended claims 1 and 8 recite, among other features, 75 to 80% by weight of tert-butyl acrylate as monomer A. Applicants respectfully submit that a skilled artisan is not directed at selecting the above-quoted amount of monomer A in combination with all of the other claim features of independent claims 1 and 8.

Dausch teaches, at col. 2, lines 4-5, 30 to 99% by weight of tert-butyl acrylate and/or tert-butyl methacrylate as monomer A. Dausch further teaches, at col. 4, line 52, that the preferred embodiment comprises 30 to 72% by weight of monomer A.

Thus, Dausch teaches away from the instantly claimed subject matter because Dausch directs a skilled artisan to limit the amount of tert-butyl acrylate between 30 and 72%.

Further, Applicants note that Dausch is discussed at page 3, line 37 to page 4, line 4, of Applicants' disclosure. Specifically, Applicants note that the instantly claimed subject matter is characterized by a significantly improved sprayability of formulations containing up to at most 55% by weight of organic volatile components, coupled with good mechanical properties of the films. At the same time, the polymers according to the instant claims exhibit good compatibility with customary cosmetic ingredients, good wash-out properties from, for example, hair, and the ability to be formulated in clear VOC-55 aerosols, which distinguishes the instant claims from Dausch.

Claims 1-8, 12, 13, and 15 are rejected under 35 USC §103(a) as being unpatentable over US Patent No. 6,482,393 to Schlehmann et al.

Amended claims 1 and 8 recite, among other features, 75 to 80% by weight of tert-butyl acrylate as monomer A. At least these features of the independent claims cannot reasonably be considered to be taught in Schlehmann.

Schlehmann teaches, at col. 1, lines 66-67, from 50 to 72% by weight of monomer A. At col. 2, lines 5-6, the upper limit of 72% is characterized as being critical because above the upper limit the advantageous hairsetting compositions are no longer found. Thus, Schlehmann teaches away from the instantly claimed subject matter because a range for 75 to 80% of tert-butyl acrylate is indicated as being within a range not advantageous for hairsetting compositions.

Claims 6, 8, and 12-15 are in condition for allowance for at least their dependence on an allowable claim 1, as well as for the separately patentable subject matter that each of these claims recites.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 22-0185, under Order No. 12810-00307-US1 from which the undersigned is authorized to draw.

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Respectfully submitted,

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